

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**THEODORE PETERSON  
PLAINTIFF'S**

v.

**WARDEN TIM BETTI  
DEPUTY WARDEN DAVID LANGAN  
BEN O'LEARY  
CATERING BY MARLINS, INC.(C.B.M)  
MARI FINLON  
LEVI CASTOR**

**DEFENDANT'S**

DOCKET NO.:

4:17cv1040

CIVIL COMPLAINT

**FILED  
SCRANTON**

JUN 14 2017

PER

**DEPUTY CLERK**

TO BE FILED UNDER U.S.C. SECTION 1983

**COMPLAINT**

**I. JURISDICTION AND VENUE**

1. This is a civil action authorized by U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by Constitution of the United States. The court has jurisdiction under 28 U.S.C. Section 1331 and 1343(a)(3). Plaintiff Hey seeks declaratory relief pursuant to 28 U.S.C. Section 2284 and Rule 65 of the Federal Rule of Civil Procedure.

**II. PLAINTIFF**

2. Plaintiff Theodore Peterson, is and was at all times mentioned herein incarceration in the State of Pennsylvania in the custody of Lackawanna County Prison. He is currently confined in Lackawanna County Prison, in Scranton, Pennsylvania.

**III. DEFENDANTS**

3. Defendant Timothy Betti is the Warden of Lackawanna County Prison. He is legally responsible for all operations of the Prison and all employees. He is responsible for the welfare of all the inmates of the prison. He is also the one that overlooks all investigations.

*Name of first defendant: Timothy Betti  
Employed as Warden at Lackawanna County Prison  
1371 North Washington Ave. Scranton P.A. 18509*

4. Defendant David Langon is the Deputy Warden of Lackawanna County Prison. He is second in command

and reports to the Warden.

*Name of second defendant: David Langan  
Employed as Deputy Warden at Lackawanna County Prison  
1371 North Washington Ave. Scranton P.A. 18509*

5. Defendant Ben O'Leary is the Catering By Marlins Manager in the prison. It is believed that he is responsible for hiring the employees to work for the company in the prison.

*Name of third defendant: Ben O'Leary  
Employed as Manager of Catering By Marlins at Lackawanna County Prison  
1371 North Washington Ave. Scranton P.A. 18509*

6. Defendant Levi Caster was the employee hired by Catering By Marlins company to work in the prison. He is the person accused of Sexual Harassment.

*Name of fifth defendant: Levi Castor  
Location: Unknown*

7. Defendant Mari Finlon is the person in the prison in charge of the Prison Rape Elimination Act P.R.E.A.. She is in charge of the prison's P.R.E.A. coordination and administration if there is any Sexual Assaults or Sexual Harassment within Lackawanna County Prison. She is also responsible for assessment of any person claiming that they witnessed or was a victim of any sexual assaults or sexual harassment within Lackawanna County Prison.

*Name of fourth defendant: Mari Finlon  
Employed as P.R.E.A. Coordinator at Lackawanna County Prison  
1371 North Washington Ave. Scranton P.A. 18509*

8. Defendant Catering By Marlins is the Food Service Company of The Prison employees.

*Name of sixth defendant: Catering By Marlins  
Employed as the food company at Lackawanna County Prison  
1600 Heritage Parkway Mansfield, Texas 76063*

#### **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

9. On JUNE 29, 2015 Plaintiff spoke to SGT. Scwalinski of Lackawanna County Prison about Levi Castor sexually harassing me. I told the SGT. Mr. Castor had been saying unwanted sexual things to me for months and tried touching me in unwanted sexual ways. The SGT. then called Ms. Mari Finlon The P.R.E.A. Coordinator to the cell where the SGT. had me waiting. I told Ms. Finlon and told her what was going. I asked for grievance forms to write what had happened to me on it and submitted it to the SGT. Ms. Finlon got my all of the story and said it would be taken care of. Later on that day June 29, 2015 SGT. William Shandley walked into the Kitchen where the defendant Mr. Castor and The Plaintiff Mr. Peterson worked. The SGT. saw the defendant Mr. Castor holding an

inmate from behind and humping on the man from the back. The SGT. told Mr. Castor to come with him and was taken to the Wardens office where his clearance was pulled from working in the prison for touching inmates and what the Plaintiffs had accused him of.

10. Plaintiff has exhausted all applicable administrative remedies to bring all allegations pled herein, in which the Lackawanna County Prison PREA coordinator made a determination that all allegations pled herein all allegations pled herein are "Founded". (See Exhibit ""')

### V. FACTS

11. On the month of May 2015 Levi Caster an employee of the food company in Lackawanna County Prison said unwelcomed sexual comments to me. Defendant Castor told me he is an homosexual. I told him I'm not. He walked away laughing. Levi than threatened me by saying if I told anyone I would be fired! Levi knew I needed my job cause I have no outside support finacially. Levi told me He wanted to have sex with me and other inmates. He said his dream was to have a threesome with male inmates. I said, "stop talking to me like this I am not a homosexual". For the months of May and June of 2015 he constantly torture me with sexual harassment. I was afraid to say anything cause I did not want to be retailated against and lose my job working in the Kitchen. I told him I needed the money to fight my case, my living and my hygiene. So please leave me alone. He threatened to have his boss fire me if I told anything. June 27,2015 Levi walked into cooler #2 behind me while I went to get a box of butter Levi said I can pick him up like a pick the box up. I tried to walk by him and he stepped in my way and said please carry me. As I walked by him he said I had a nice ass. I again asked him to stop disrespecting me and he said You better not tell cause he has people in high places and they won't believe me if I told. He then threatened to fire me! So I walked out the cooler. Levi made my work hard cause I constantly felt paronoid and had to watch my back cause I didn't know what he would do next. He said loudly that he liked chains and to be tied up. He looked at me and told me this and I was embarrassed. I told him he is abusing his power and taking advantage of me. He made the work area hard to come do my job.

On Sunday June 28,2015 during his shift I was cooking in the Kettle and I had my hands full so my underwear was showing cause the elastic in my pants was loose and would'nt stay up, he came over to me and said I wonder how that ass looks in those underwear without those pants. I yelled at him saying he better stop talking to me like that! Then after I looked at the camera and pointed at him and said he keeps disrespecting me. I didn't know what to do cause for a month and ahalf I have dealt with his stressful threats and attemps of trying to touch me in

sexual ways and commenting on having sex with me. I was scared to tell cause I needed my job and I believed he would get me fired. He started touching my shoulder and my lower back close to my behind. He said he wanted me to spank him. He has come in the freezer while I was getting the food needed to make meals and He came in and touched my ass while I had boxes in my hands. I dropped the boxes and ran out. I was mentally drained from all this and fighting my cases. I was going to put hands on him but I didn't want to get another case for assault. He pushed me in the back and told me to hit him cause he likes to get beat and have hot wax thrown on him. I walked away from him and looked back and he pulled his shirt up and showed his chest.

On June 29, 2015 this same C.B.M. worker named Levi grabbed another prisoner by the prep station. He grabbed the man and wrapped his arms around him and started to dry hump him as the guy tried to break free SGT. William Shanley walked in and saw him doing it and Levi let Carlos go once he seen the SGT. William Shanley seen what he did. This is also the day I reported that he has been sexually harrassing me, trying to bully me and threatening my job. After the SGT seen him doing this he walked him to the Wardens office and had his clearence pulled from working in the prison. Levi's clearence was pulled cause an empolyee of the prison is not allowed to touch an inmate in any kind of way unless it is a prison guard. Uninvited sexual contact that is done maliciously and sadistically to cause suffering, severe emotional distress, and shame, embarrassment, and humiliation. Plaintiff claims that He continues to suffer daily due to the incidents involving Caster and he suffers , depression, fear of being alone, the constant feeling of being stalked. Plaintiff also suffers from insomnia, nightmares, an erratic appetite, and headaches. conscience of mankind," and thus violates the Eighth Amendment, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person. Plaintiff claims that He continues to suffer daily due to the incidents involving Caster and he suffers , depression, fear of being alone, the constant feeling of being stalked. The Plaintiff has "liberty interest to be free in his person from threats, intimidation and sexual abuse as that was perpetrated by Mr. Castor."

I spoke to MS. MARI FINLON, P.R.E.A Coordinator and I told her specifically about Levi Castor and explained that I'm under major stress over all this cause I have **NEVER** dealt with this type of abuse in my life. I asked her to please get my help and counseling. She said she would and didn't for 20 months after this was reported. She didn't have anyway for me to contact anyone by the phones until January 4, 2017. I then wrote the Prison Rape Elimination Act ("PREA") supervisor in Beach Lake and told him MS. Finlon did NOT follow her job protocol by getting me counseling after I asked her 3 times personally. I am under a great deal of stress and mentally disturbed at

times. I'm paranoid when people are around me now cause I don't feel like I can trust anyone because of this. They let this man come in and prey on male inmates. Ben O'Leary should have trained Mr. Castor knowing that he is a openly gay man coming to work in a male prison. Mr. O'Leary should have trained Mr. Castor fully so there is an understanding of how he should work around male inmates without him being discriminated against and to know that the prisoners have the right to be free from sexual abuse or sexual harassment. Ms. Finlon knew that Mr. Castor was an openly gay man and should of trained Ben O'Leary knowing he hired an openly gay man in a male prison.

Febuary 27, 2017 was the first time ever seen by a counselor. On July 29, 2015 S "FOUNDED" this case after this investigation. MS. Finlon put a seperation on me with people to prevent me from working. She terminated my job as well for false accusations. There was an investigation done and it was proven that I did nothing wrong. I was trying to go back to work and MS. Finlon put the seperation on me so I could'nt go back to work.

Catering By Marlins is the company that Ben O'leary is manager in the prison for. They are the surpose to train there employees for hiring. The company is also surpose to look over there employees to make sure sexual harassment or assult does not happen.

#### **VII. CAUSE OF ACTIONS**

12. Count 1. On or about May16, 2015, through June 29, 2015, Levi Castor, employed at the Lackawanna County Prison, by and through Catering by Marlins, Inc., a food service company, did commit a sexual harassment against the Plaintiff throughout the months of May and June of 2015 in Violation of Plaintiffs constitutional protections afforded him under the Eighth Amendment of the United States Constitution to from cruel and unusual punishment, namely sexual harassment.

13. Count 2. On or about May16, 2015, through June 29, 2015, Levi Castor, employed at the Lackawanna County Prison, by and through Catering by Marlins, Inc., a food service company, did commit a sexual harassment against the Plaintiff throughout the months of May and June of 2015 in Violation of Plaintiffs constitutional protections afforded him under the Fourteenth Amendament of the United States Constitution to be afforded equal protection of the law, namely protection from being sexually harassed.

14. Count 3. On or about May16, 2015, through June 29, 2015, Timothy Betti, the Warden of the Lackawanna County Prison, did neglect to impliment proper oversight of Catering By Marlins, Inc. employees to prevent a sexual harassment against the Plaintiff throughout the months of May and June of 2015 in Violation of Plaintiff constitutional protections afforded him under the Eighth Amendment of the United States Constitution to

cruel and unusual punishment, namely sexual harassment.

15. Count 4. On or about May 16, 2015, through June 29, 2015, Timothy Betti, the Warden of the Lackawanna County Prison, did neglect to impliment proper oversight of Catering By Marlins, Inc. employees to prevent a sexual harassment against the Plaintiff throughout the months of May and June of 2015 in Violation of Plaintiffs constitutional protections afforded him under the Fourteenth Amendament of the United States Constitution to be afforded equal protection of the law, namely protection from being sexually harassed.

16. Count 5. On or about May 16, 2015, through June 29, 2015, David Langan, the Deputy Warden of the Lackawanna County Prison, did neglect to impliment proper oversight of Catering By Marlins, Inc. employees to prevent a sexual harassment against the Plaintiff throughout the months of May and June of 2015 in Violation of Plaintiffs constitutional protections afforded him under the Eighth Amendment of The United States Constitution to cruel and unusual punishment, namely protection from being sexually harassed.

17. Count 6. On or about May 16, 2015, through June 29, 2015, David Landan, the Deputy Warden of Lackawanna County Prison, did neglect to impliment proper oversight of Catering By Marlins, Inc. employees to prevent a sexual harassment against the Plaintiff throughout the months of May and June of 2015 in Violation of Plaintiffs Constitutional protections afforded him under the Fourteenth Amendament of The United States Constitution to be affored equal protection of the law, namely protection from being sexually harassed.

18. Count 7. On or about May 16, 2015, through June 29, 2015, Mari Finlon, the P.R.E.A. Coordinator of Lackawanna County Prison, did fail in her responsibility to impliment proper oversight in the area of the prison, classified as "the kitchen", to prevent a sexual harassment against the Plaintiff throughout the months of May and June of 2015 in violation of Plaintiffs Constitutional protections afforded him under the Eighth Amendment of The United States Constitution to cruel and unusual punishment, namely protection from being sexually harassed inside Lackawanna County Prison. This neglect in oversight constituted deliberate indifference by not complying with the regulations of P.R.E.A..

19. Count 8. On or about May 16, 2015, through June 29, 2015 Mari Finlon, the P.R.E.A. Coordinator of Lackawanna County Prison, did fail in her responsibility to impliment proper oversight in the area of the prison classified as "the kitchen". Employees to prevent a sexual harassment against the Plaintiff throughout the months of May and June of 2015 in Violation of Plaintiffs Constitutional protections afforded him under the Fourteenth Amendment of The United States Constitution to be affored equal protection of the law namely

protection from being sexually harassed inside Lackawanna County Prison. This neglect in oversight constituted deliberate indifference by not complying with the regulations of P.R.E.A..

20. Count 9. On or about May 16, 2015, through June 29, 2015 Ben O'Leary, the Manager of Catering By Marlins Inc. in Lackawanna County Prison, did neglect to impliment proper oversight of Catering By Marlins, Inc. employees to prevent a sexual harassment against the Plaintiff throughout the months of May and June of 2015 in violation of Plaintiffs Constitutional protections afforded him under the Eighth Amendment of The United States Constitution to cruel and unusual punishment, Negligant hiring, Training and/ or Supervision, namely protection from being sexually harassed.

21. Count 10. On or about May 16, 2015, through June 29, 2015 Ben O'Leary, the Manager of Catering By Marlins Inc. in Lackawanna County Prison, did neglect to impliment proper oversight of Catering By Marlins, Inc. employees to prevent a sexual harassment against the Plaintiff throughout the months of May and June of 2015 in violation of Plaintiffs Constitutional protections afforded him under the Fourteenth Amendment of The United States Constitutional to be afforded equal protection of the law, Negligant hiring, Training and/ or Supervision, namely protection from being sexually harassed.

22. Count 11. On or about May 16, 2015, through June 29, 2015, Catering By Marlins, Inc., did neglect to impliment proper screening measures and/or to properly assess suitable personnel to work inside of a prison, among incarcerated persons, in which it is the policy of the prison to house male individuals who identify with the opposite sex in a special housing unit. The Plaintiff throughout the months of May and June of 2015 in violation of Plaintiffs Constitutional protection afforded him under the Eighth Amendment of The United States Constitution to cruel and unusual punishment, Negligant hiring, Training and/ or Supervision, namely protection from being sexually harassed.

23. Count 12. On or about May 16, 2015, through June 29, 2015 Catering By Marlins, Inc., did neglect to impliment proper sceening measures and/or to properly asses suitable personnel to work inside of a prison, among incarcerated persons, in which it is the policy of the prison to house male individuals who identify with the opposite sex in a special housing unit. The Plaintiff throughtout the months of May and June of 2015 in violation of Plaintiffs Constitutional protections afforded him under the Fourteenth Amendment of The United States Constitution to be afforded equal protection of the law, Negligant hiring, Training and/ or Supervision, namely protection from being sexually harassed.

#### VIII. PRAYER FOR RELIEF


24. PLAINTIFF seeks declaratory relief for all violations incorporated within counts 1 through 11 against all defendants individually and severally, that the acts committed against THEODORE PETERSON were against the laws and peace and dignity of this COMMONWEALTH OF PENNSYLVANIA or stated as such this Court deems appropriate and necessary.

25. PLAINTIFF seeks monetary damages in the amount of \$100,000.00 against each Defendant individually and severally for all violations incorporated within counts 1 through 12.

26. PLAINTIFF seeks punitive damages in the amount of \$100,000.00 against each Defendant individually and severally for all violations incorporated within counts 1 through 12.

**WHEREFORE**, PLAINTIFF, THEODORE PETERSON , pray that this court grant all relief sought by him due to the unlawful, knowing , intentional, and malicious acts of the DEFENDANT, namely all Defendants mentioned herein, and any additional relief that this court may deem appropriate and just under the circumstances. Furthermore, PLAINTIFF, THEODORE PETERSON , respectfully requests that this Honorable Court allow this action to proceed on its merits.

I declare under penalty of perjury that the forgoing is true and correct.

  
Theodore Peterson  
1371 North Washington Avenue  
Scranton, PA 18509

Signed this 10<sup>th</sup> day of June, 2017.



July 29, 2015

Mr. Theodore Peterson,

After reviewing the allegations made on June 29, 2015, regarding you being sexually harassed, I have closed the investigation and ruled it, "FOUNDED". I have also forwarded this investigation to the Lackawanna County District Attorney's Office for further review. If you have any further questions, please direct them to the District Attorney.

Respectfully yours,

A handwritten signature in black ink that reads "Mari Finlon". The signature is written in a cursive, flowing style.

Mari Finlon—PREA Coordinator

CC: inmate PREA file

(Exhibit)

*Theodore Peterson*

Lackawanna County Prison  
1371 North Washington Ave.  
Scranton, PA 18509

RECEIVED  
SCRANTON

JUN 14 2017

PER *[Signature]*  
DEPUTY CLERK

CONTENTS MAILED FROM  
A CORRECTIONAL FACILITY

OFFICE  
United States  
Middle District  
William  
235 North  
P.  
Scranton